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6 Attorneys for Plaintiff
SHAWN DAY
7

8 UNITED STATES DISTRICT COURT
9
10 NORTHERN DISTRICT OF CALIFORNIA

11 SHAWN DAY, individually and as
successor in interest to the Estate of
12 Steffen Matthew Day,

13 Plaintiff,

14 vs.

15 COUNTY OF CONTRA COSTA, JOSHUA
PATZER, WARREN RUPF, and Does 1
16 through 50, et al.,

17 Defendants.

Case No. C07-4335-PJH

**DECLARATION OF THOM SEATON IN
OPPOSITION TO DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT /
SUMMARY ADJUDICATION**

Date: September 10, 2008
Time: 9:00 a.m.
Judge: Honorable Phyllis J. Hamilton
Dept: Courtroom 3, 17th Floor (SF)

18
19 I, THOM SEATON, declare as follows:

20 1. I am an attorney at law duly licensed to practice law before all the courts
21 of the State of California and I am a member of the firm Casper, Meadows, Schwartz
22 & Cook, attorneys of record for plaintiffs in this action.

23 2. Attached hereto as **Exhibit 1** is a true and correct copy of Sheriff's
24 Policy And Procedure No. 1.06.61 *Use of Force* produced during discovery to Plaintiff
25 by Defendants.

26 3. Attached hereto as **Exhibit 2** is a true and correct copy of excerpts of
27 the deposition of Deputy Joshua Patzer, taken on May 29, 2008.

28 4. Attached hereto as **Exhibit 3** is a true and correct copy of excerpts of

1 the deposition of Roger Clark taken on July 31, 2008.

2 5. Attached hereto as **Exhibit 4** is a true and correct copy of Deputy
3 Patzer's Administrative Review Interview conducted in August 16, 2006 beginning at
4 9:17 a.m. and transcribed from the tape furnished by Defendants to Plaintiff during
5 discovery.

6 6. Attached hereto as **Exhibit 5** is a true and correct copy of the report of
7 the Sheriff's Department Criminalistics Laboratory prepared on or about August 25,
8 2006, based on inspections conducted on August 15-16, 2006 during the investigation
9 of the shooting and produced during discovery to Plaintiff by Defendants.


10 7. Attached hereto as **Exhibit 6** is a true and correct copy of excerpts from
11 the Interview of Sergeant Gary Clark conducted by Detective A. Deplitch on August
12 15, 2006 at 6:40 a.m. during the investigation of the shooting and produced during
13 discovery to Plaintiff by Defendants.

14 8. Attached hereto as **Exhibit 7** is a true and correct copy of an excerpt
15 from the Continuation/Supplemental Report dated on or about September 8, 2006 by
16 Detective A. Deplitch prepared during the investigation of the shooting and produced
17 during discovery to Plaintiff by Defendants.

18 9. Attached hereto as **Exhibit 8** is a true and correct copy of testimony of
19 Brian Peterson, M.D., at the Coroner's Inquest which took place on December 20,
20 2006.

21 I declare under the penalty of perjury under the laws of the State of California
22 and the United States that the foregoing is true and correct and that if called upon to
23 do so, would testify the foregoing facts in Court.

24 Executed at Walnut Creek, California, on August 20, 2008.

25
26 
27 Thom Seaton
28 CASPER, MEADOWS, SCHWARTZ & COOK

1 **PROOF OF SERVICE**

2 **RE: Shawn Day, et al. v. County of Contra Costa, et al.**
 3 **United States District Court Case No. C07-4335-PJH**

4 I am a citizen of the United States and am employed in the County of Contra
 5 Costa, State of California. I am over eighteen (18) years of age and not a party to the
 6 above-entitled action. My business address is 2121 North California Blvd., Suite
 1020, Walnut Creek, CA 94596. On the date below, I served the following documents
 in the manner indicated on the below-named parties and/or counsel of record:

7 **DECLARATION OF THOM SEATON IN OPPOSITION TO DEFENDANTS' MOTION**
 8 **FOR SUMMARY JUDGMENT / SUMMARY ADJUDICATION**

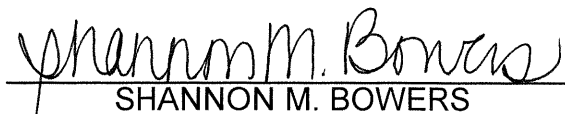
- 9 ☐ **U.S. MAIL**, with First Class postage prepaid and deposited in sealed envelopes
 10 at Walnut Creek, California.
 11 ☐ **ELECTRONICALLY**, I caused said documents to be transmitted using ECF as
 specified by General Order No. 45 to the following parties.
 12 ☐ **FACSIMILE TRANSMISSION** from (925) 947-1131 during normal business hours,
 complete and without error on the date indicated below, as evidenced by the
 report issued by the transmitting facsimile machine.
 13 ☒ **Hand-Delivery Via Courier**
 14 **Other: OVERNIGHT DELIVERY.** On the date indicated below, I placed a true and
 15 correct copy of the aforementioned document(s) in a sealed envelope and/or
 package designated by **Federal Express Priority Overnight**, individually
 16 addressed to the parties indicated below, with fees fully prepaid, and caused
 each such envelope and/or package to be deposited for pick-up on the same
 day by an authorized representative of **Federal Express** at Walnut Creek,
 California, in the ordinary course of business.

18 **For Defendants**

19 James V. Fitzgerald, III
 20 McNamara, Dodge, Ney, Beatty, Slattery & Pfalzer LLP
 1211 Newell Avenue
 Walnut Creek, CA 94596
 Tel: (925) 939-5330
 21 Fax: (925) 939-0203

22
 23 I declare under penalty of perjury under the laws of the State of California,
 24 and the United States of America, that the foregoing is true and correct and that I am
 readily familiar with this firm's practice for collection and processing of documents for
 mailing with the U.S. Postal Service.

25
 26 Dated: August 20, 2008


 SHANNON M. BOWERS